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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 THOMAS WILLIAM SINCLAIR  
11 RICHEY,

12 Petitioner,

13 v.

14 RON FRAKER.

15 Respondent.

CASE NO. C13-5043 RBL-JRC

REPORT AND  
RECOMMENDATION

NOTED FOR: MAY 10, 2013

16 The District Court has referred this petition for a writ of habeas corpus to United States  
17 Magistrate Judge, J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §  
18 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner filed the  
19 petition pursuant to 28 U.S.C. § 2254.

20 Petitioner has filed two motions asking the Court to dismiss or allow him to withdraw  
21 this petition (ECF No. 12 and 14). Fed. R. Civ. P. 41(a)(1)(A) allows a petitioner to dismiss his  
22 action without a Court order before an answer or motion for summary judgment is filed. No  
23 answer or motion for summary judgment has been filed in this action. Accordingly, the Court  
24 recommends that this petition be dismissed without prejudice.

1 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have  
2 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.  
3 6. Failure to file objections will result in a waiver of those objections for purposes of de novo  
4 review by the district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit  
5 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on May,  
6 10, 2013, as noted in the caption

7 Dated this 8<sup>th</sup> day of April, 2013.

8  
9 /s/J. Richard Creatura  
10 J. Richard Creatura  
11 United States Magistrate Judge  
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